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Celgene Corporation*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CELGENE CORPORATION,

Plaintiff,

v.

**LOTUS PHARMACEUTICAL CO., LTD.
and ALVOGEN PINE BROOK, LLC,**

Defendants.

Civil Action No. 17-6842 (SDW)(LDW)

Hon. Susan D. Wigenton, U.S.D.J.

Hon. Leda D. Wettre, U.S.M.J.

(Filed Electronically)

**CELGENE CORPORATION'S COVENANT NOT TO SUE
FOR INFRINGEMENT OF U.S. PATENT NO. 7,855,217**

Celgene Corporation (“Celgene”) hereby represents and warrants that it owns all right, title, and interest in United States Patent No. 7,855,217 (“the ’217 patent”).

Celgene hereby agrees and covenants not to sue Lotus Pharmaceutical Co., Ltd. (“Lotus”) and Alvogen Pine Brook, LLC (“Alvogen”), or their successors in interest, for infringement of the ’217 patent based on the filing of Abbreviated New Drug Application (“ANDA”) No. 210480 or their past, present, or future manufacture, use, sale, and offer for sale, in the United States, or importation into the United States, of a generic version of Celgene’s Revlimid® product, as presently described in ANDA No. 210480, and provided that there is no amendment or modification to ANDA No. 210480 or any Drug Master File referenced therein that changes or modifies the solid state(s) or crystalline form(s) of the drug substance proposed for use in connection with the drug product described in ANDA No. 210480. This covenant does not extend to any entities other than Lotus and Alvogen.

If ANDA No. 210480, or any Drug Master File referenced therein, is amended or modified in such a way as to change or modify the solid state(s) or crystalline form(s) of the drug substance proposed for use in connection with the drug product described in ANDA No. 210480, this covenant shall become void.

In granting this covenant, Celgene does not concede that the ’217 patent is not infringed, is invalid, or is unenforceable.

Dated: August 8, 2018

By: s/ Charles M. Lizza
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